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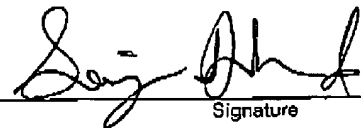
NO. 6774 P. 4

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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 048772-2301 (formerly 0001.US01.CIP)	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] On February 14, 2007 Signature  Typed or printed name <u>Jolene P. Britt</u>		Application Number 09/800,389	Filed 03/06/2001
		First Named Inventor Allen B. Gruber	
		Art Unit 3892	Examiner CHENCINSKI, SIEGFRIED E
Applicant requests review of the non-final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		 Signature <u>Sanjeev K. Dhand</u> Typed or Printed Name	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>51,182</u>		<u>(858) 847-6860</u> Telephone Number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34		<u>February 14, 2007</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of 1 forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DLMR_300034.1

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Atty. Dkt. No. 048772-2301
(formerly 0001.US01.CIP)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: GRUBER et al.
Title: SYSTEM AND METHOD FOR
INTERACTIVE FUNDRAISING
OVER A WIDE-AREA
NETWORK
Appl. No.: 09/800,389
Filing Date: 03/06/2001
Examiner: CHENCINSKI, SIEGFRIED E
Art Unit: 3692
Confirmation Number: 8040

CERTIFICATE OF FACSIMILE TRANSMISSION I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below. <u>Julienne P. Britt</u> (Printed Name) <u>[Signature]</u> (Signature) <u>2/14/07</u> (Date of Deposit)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the New Pre-Appeal Brief Conference Pilot Program, announced
July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal.

REMARKS

Claims 1 and 7 were rejected under 35 U.S.C. § 103(a) as allegedly being disclosed by the
article by David King (hereinafter "King") in view of U.S. Patent Application Publication
2002/0002586 A1 to Rafal et al. (hereinafter "Rafal"). Claims 2-6 and 8-12 were rejected under
35 U.S.C. § 103(a) as allegedly being disclosed by King in view of Rafal and further in view of
U.S. Patent 6,009,410 A1 to LeMole. Applicant respectfully traverses these rejections for at least
the following reasons.

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The Examiner relies on King for the rejection of each claim. Applicant has previously submitted an affidavit from inventors Dr. Harry Gruber and Dr. Allen Gruber, along with documentation exhibiting conception of the invention prior to the August 10, 2000, date of King. Accordingly, all rejections relying on King as a prior art reference should be withdrawn.

However, the Examiner argues that King's "dating of the use of virtual plaques ... has been clarified and strengthened by the IDS documents filed by Applicant on January 14, 2006" Office Action dated November 17, 2006, page 5, lines 15-17. The Examiner further argues that the IDS documents "make moot Applicant's affidavit" Office Action dated November 17, 2006, page 6, line 10.

Applicant notes that, in light of the affidavit filed by Applicant, the Examiner's reliance on King is improper. The affidavit effectively "establish[ed] invention of the subject matter of the rejected claim[s] prior to the effective date of the reference" See 37 C.F.R. § 1.131. Nothing about the IDS documents changes the "effective date" of King, which remains August 10, 2000. King remains predated by the present invention. Applicant is unaware of any authority which cures this deficiency of King.

In order to reject a claim under 35 U.S.C. § 103(a), the claimed invention must be "disclosed or described as set forth in section 102 of this title." 35 U.S.C. § 103(a). King has previously been applied as a reference under 35 U.S.C. § 102(a), which precludes patents if the invention is "described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent" 35 U.S.C. § 102(a) (emphasis added).

As established by Applicant's affidavit filed January 16, 2006, King was published after "the invention thereof by the applicant." Thus, King no longer satisfies the requirements for a reference under 35 U.S.C. § 102(a). Further, King fails to satisfy the requirements for a reference under any other section of 35 U.S.C. § 102. Thus, King cannot be relied upon to reject the pending claims.

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In view of the foregoing, it is respectfully submitted that the application is in condition
for allowance.

Respectfully submitted,

Date February 14, 2007

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